**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

ORIGINAL JURISDICTION

Date: Nainital: the 11th day of October, 2007
Criminal Second Bail Application No. 1078 of 2007
**Order on the Bail application of accused.**
CRIMINAL SIDE

Sunil Dhasmana S/o Shivcharan Dhasmana
R/o Village Nunera Angani, Patti Bichala Badalpur,
Tehsil Lansdowne
District Pauri Garhwal

….. Applicant (In Jail)

Versus

State of Uttarakhand

…..Opposite Party

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Arising out of Case Crime No. 1 of 2007
Under Sections 498-A, 304-B & 201 of IPC and
¾ of Dowry Prohibition Act.
Patwari Bichola Badalpur-II
District-Pauri Garhwal

**Hon'ble Dharam Veer, J.**

Heard Sri I. P. Kohli, learned counsel for the applicant and Sri M.A. Khan, learned brief holder for the State.

This is second bail application. First bail application was dismissed by this Court on 18.09.2007 for want of prosecution.

In brief the prosecution case is that deceased Lata Devi was married with the present applicant on 12.10.2005 and widow Smt. Maheshi Devi, mother of the deceased, had given Rs.55,000/- in dowry. After marriage, the deceased was mentally and physically tortured by the present applicant for dowry. The present applicant went to the house of his mother-in-law on 15.04.2007 and demanded Rupees one lakh and also told his mother-in-law that if she did not give the money, he would kill her daughter. The mother of the deceased was not in a position to give Rupees one lakh to her son-in-law as a result of which Lata Devi was murdered by the present applicant. On 22.04.2007 at about 2.00 A.M., mother of the deceased received information that her daughter was seriously ill. She reached at the house of the son-in-law where she saw that her daughter was lying dead on the ground and rope was there around her neck. For the same averments, FIR was lodged by Smt. Maheshi Devi, mother of deceased lata Devi, on 28.04.2007 at 07.30 A.M. at Patwari Bichala Badalpur-2, Sub-District Lansdowne, District Pauri Garhwal.

Learned counsel for the applicant has submitted that no case is made out against the applicant under the aforesaid Sections on the basis of F.I.R. and other evidence.

Learned Additional Government Advocate has submitted that Rupees one lakh was demanded by the present applicant on 15.04.2007 and when the demand of dowry was not fulfilled by the mother of the deceased then deceased lata Devi was murdered by the present applicant. He has further submitted that deceased Lata Devi died an unnatural death, since the cause of death has been shown in the post mortem report as Asphyxia due to hanging, within two years of the marriage in the house of the present applicant, who is the husband of deceased Lata Devi and just before her death the present applicant was demanding Rupees one lakh in dowry. These facts are proved from the F.I.R. and also the investigation made by the Investigating Officer.

From the perusal of the F.I.R., post-mortem report and other documents available on record, it comes out that deceased Lata Devi was married with the present applicant on 12.10.2005 and as per the post-mortem report, she died of Asphyxia due to hanging in the house of the present applicant on 22.04.2007. Accordingly, the deceased died an unnatural death within two years of her marriage and just before her death she was mentally and physically tortured for dowry by the applicant. The applicant was demanding Rupees one lakh in dowry just before her death and due to non-fulfillment of the demand of Rupees one laks deceased Lata Devi died of Asphyxia due to hanging caused by the present applicant.

From the above facts and circumstances, it is proved that deceased Lata Devi died an unnatural death within seven years of her marriage in the house of the present applicant who is husband of the deceased and the deceased was being tortured mentally and physically just before her death by the present applicant for the dowry.

Looking to the totality of the circumstances, I do not find it a fit case for bail at this stage.

Accordingly, the bail application is rejected.

**(Dharam Veer, J.)**

11.10.2007
RBS